

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,)	No. CR 08-0214 (VRW-JL)
)	
Plaintiff,)	[PROPOSED] ORDER DETAINING
)	DEFENDANT PENDING TRIAL
v.)	
)	
CARLOS D. ARAIZA)	
)	
Defendant.)	
)	

The defendant, Carlos D. Araiza, is charged with receiving and possessing child pornography in violation of 18 U.S.C. §§ 2252(a)(2) and (a)(4)(B), respectively. On April 10, 2008, the Court heard the United States' motion to detain the defendant without bail pending trial. The defendant, present and in custody, was represented by retained counsel Charles C. Pierpoint III. Assistant United States Attorney Andrew S. Huang represented the United States. The parties proceeded by proffer. Both sides had an opportunity before the hearing to review a report prepared by Pretrial Services.

After considering the evidence and the parties' arguments, the Court orders that the defendant be detained pending trial. The Court finds, by a preponderance of the evidence, that a serious risk exists that the defendant will flee and that, under 18 U.S.C. § 3142(e), no condition or combination of conditions will reasonably assure his appearance as required for the reasons

1 presented by the government during the April 10, 2008 hearing and, more specifically, the
2 following:

3 1. The defendant has strong Spanish language skills, as he is a state-
4 credentialed high school Spanish language teacher;

5 2. The defendant has strong ties to Philippines, where he has a fiancée who is
6 a Philippine national and to where he has traveled on at least three recent occasions: August
7 2007, January 2008, and February 2008;

8 3. The defendant has had extensive international travels, as documented in
9 the Pretrial Services report; and

10 4. Notwithstanding his relationship to his sister, defendant's ties to the
11 community have been attenuated due to his estrangement from his son, the recent death of his
12 mother in January 2008, and infrequent contact with his brother; and

13 5. If convicted, the defendant faces a mandatory minimum prison sentence of
14 5 years, and up to 20 years, on Count One alone, and that the length of his potential sentences,
15 along with the stigma of being a convicted child sex offender, creates a strong incentive for the
16 defendant to flee.

17 The Court further finds that the defendant's sister's offer to post an unsecured bond will
18 not reasonably assure that the defendant will appear as required. Additionally, given the nature
19 of the charges involved and the presence of children in the sister's home, she cannot reasonably
20 assume custody and supervision of the defendant.

21 Based on the foregoing, the government's motion for detention is GRANTED. IT IS
22 HEREBY ORDERED that:

23 1. The defendant be detained pending trial under 18 U.S.C. § 3142;

24 2. The defendant be, and hereby is, committed to the custody of the Attorney
25 General for confinement in a corrections facility separate, to the extent practicable, from persons
26 awaiting or serving sentences or being held in custody pending appeals;

27 3. The defendant be afforded reasonable opportunity for private consultation
28 with his counsel; and

1 4. On order of a court of the United States or on request of an attorney for the
2 government, the person in charge of the corrections facility where the defendant is confined shall
3 deliver the defendant to an authorized Deputy U.S. Marshal for the purpose of any appearance in
4 connection with a court proceeding.

5 IT IS SO ORDERED

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7 DATED: April 15, 2008

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10 Hon. JAMES LARSON
11 Chief United States Magistrate Judge
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